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Michael L. Obradovich

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CHRISTIE PARKER & HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7066

EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/910,510
Filing Date: July 19, 2001
Appellant(s): OBRADOVICH ET AL.

Daniel M. Cavanagh
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/25/08 appealing from the Office action mailed 3/26/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

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The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0133500	Arlein et al	9-2002
6266614	Alumbaugh	7-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-5 and 26-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2002/0133500 to Arlein et al in view of U.S. Patent No. 6,266,614 to Alumbaugh.

a. As per claims 1 and 33, Arlein et al teaches a method for use in a server serving a user of a communication device, the method comprising: maintaining a plurality of profiles of the user (See page 3, paragraph [0029]); receiving, through a communication network a request for

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information concerning one or more product or service providers, (See page 3, paragraph [0032], page 4, paragraph [0044]); collecting requested information from one or more sources based on the received data; and providing the requested information to the communication device (See page 3, paragraph [0029] and page 4, paragraph [0039]). Furthermore, Arlein et al teaches receiving data indicative of a selected one of the profiles (See page 4, paragraph [0044]). However, Arlein et al fails to teach receiving data indicative of a location of the communication device determined by the communication device; the requested information including information concerning at least one product or service provider, selected in a vicinity of the location communication device in accordance with the selected profile; and providing data for the communication device to indicate to the user a location of the at least one resource relative to the location of the communication device.

Alumbaugh teaches a travel guide that includes a GPS receiver for determining a present location. Furthermore, Alumbaugh teaches receiving data indicative of a location of the communication device determined by the communication device (See col. 10, lines 15-30); the requested information including information concerning at least one product or service provider, selected in a vicinity of the location communication device in accordance with the selected profile (See Col. 10, lines 15-40); and providing data for the communication device to indicate to the user a location of the at least one resource relative to the location of the communication device (See col. 10, lines 15-40).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Arlein et al and the system which utilizes the GPS coordinates of a present location to coordinate the provision of entertainment information (See

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col. 1, lines 37-39) taught by Alumbaugh to achieve the predictable result of providing requested information to the communication device wherein the requested information including information concerning at least one product or service provider selected in a vicinity of the location of the communication device in accordance with a selected profile.

b. As per claims 2 and 34, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. Furthermore, Arlein et al teaches wherein the profiles include a personal profile (See page 3, paragraph [0032]).

c. As per claims 3 and 35, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. Furthermore, Arlein et al teaches wherein the profiles include a business profile (See page 3, paragraph [0032]).

d. As per claims 4 and 36, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. Furthermore, Arlein et al teaches wherein the profiles include a vacation profile (See page 3, paragraph [0032]).

e. As per claims 5 and 37, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. Furthermore, Arlein et al teaches wherein the one or more sources are connected to the Internet (See page 1, paragraph [0003]).

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f. As per claims 26 and 38, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. Furthermore, Arlein et al teaches wherein the personal profile includes a medical record, at least part of the collected information comprising personal medical information being stored in the medical record (See page 3, paragraph [0032]).

g. As per claims 27 and 39, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. Furthermore, Arlein et al teaches wherein one of the profiles includes a financial record, at least part of the collected information comprising financial information being stored in the financial record (See page 3, paragraph [0032]).

h. As per claim 28 and 40, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. Furthermore, Arlein et al teaches wherein the collected information is stored for the user based on a location of the at least one product or service provider (See page 5, paragraphs [0047-049]).

i. As per claim 29 and 41, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. Furthermore, Arlein et al teaches wherein the collected information is stored in the profile based on one or more types of product or service provided by the at least one resource (See page 5, paragraph [0047-0049]).

j. As per claims 30-31 and 42-43, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. Furthermore, Arlein et al teaches wherein one of the types of

product or service concerns entertainment, restaurants and/or current events (See page 3, paragraph [0032]) and figure 7).

k. As per claims 32 and 44, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. However, Arlein et al fails to teach wherein location of the communication device is indicated by GPS data.

Alumbaugh et al teaches wherein location of the communication device is indicated by GPS data (See col. 2, lines 25-46).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Alumbaugh in the claimed invention of Arlein et al in order to provide a system which utilizes the GPS coordinates of a present location to coordinate the provision of entertainment information (See col. 1, lines 37-39).

l. As per claim 45, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. However, Arlein et al fails to teaches planning a route to the at least one product or service provider

Alumbaugh teaches planning a route to the at least one product or service provider (See col. 5, lines 19-25).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Alumbaugh in the claimed invention of Arlein et al in order to provide a system which utilizes the GPS coordinates of a present location to coordinate the provision of entertainment information (See col. 1, lines 37-39).

m. As per claims 46 and 47, Arlein et al in view of Alumbaugh teaches the claimed invention as described above. However, Arlein et al fails to teach wherein one of the types of product or service concerns gas stations.

Alumbaugh teaches wherein one of the types of product or service concerns gas stations (See col. 10, line 39).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Alumbaugh in the claimed invention of Arlein et al in order to provide a system which utilizes the GPS coordinates of a present location to coordinate the provision of entertainment information (See col. 1, lines 37-39).

n. As per claims 48 and 60, Arlein et al teaches a method for use in a server serving a user of a communication device, the method comprising: maintaining a plurality of profiles of the user (See page 3, paragraph [0029]); receiving, through a communications network, a request for information concerning one or more product or service providers (See page 3, paragraph [0032] and page 4, paragraph [0044]), collecting requested information from one or more sources based on the data; providing the requested information to the communication device (See page 3, paragraph [0029] and page 4, paragraph [0049]). Furthermore, Arlein et al teaches receiving data indicative of a selected one of the profiles (See page 4, paragraph [0044]). However, Arlein et al fails to teach data indicative of a location of the communication device determined by the communication device; the requested information including information concerning at least a first product or service provider in accordance with the selected profile, wherein the first product

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or service provider and at least a second product or service provider are selected in a vicinity of the location of the communication device; and providing data for the communication device to indicate to the user that the first product or service provider satisfies the selected profile and the second product or service provider does not satisfy the selected profile.

Alumbaugh et al teaches data indicative of a location of the communication device determined by the communication device; the requested information including information concerning at least a first product or service provider in accordance with the selected profile, wherein the first product or service provider and at least a second product or service provider are selected in a vicinity of the location of the communication device; and providing data for the communication device to indicate to the user that the first product or service provider satisfies the selected profile and the second product or service provider does not satisfy the selected profile (See col. 10, lines 15-40).

o. As per claims 49-59 and 61-71, see claims 2-5, 26-32 and 45-46 above.

p. As per claim 72, Arlein et al teaches a method for use in a server serving a user of a communication device, the method comprising: receiving, through a communications network, a request for information concerning one or more product or service providers satisfying at least one user criterion (See page 3, paragraph [0029]), collecting requested information from one or more sources based on the received data; and providing the requested information to the communication device (See page 3, paragraph [0029] and page 4, paragraph [0032-0039]).

Furthermore, Arlein et al teaches receiving data indicative of a selected one of the profiles (See

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page 4, paragraph [0044]). However, Arlein et al fails to teach data indicative of a location of the communication device determined by the communication device; the requested information including selected information concerning a plurality of product or service providers satisfying the at least one user criterion, and respective directions and distances thereof from the location of the communication device, the selected information being formatted for the communication device to show the plurality of product or service providers on a list, wherein the list of product or service providers being sortable on their direction and distance from the location of the communication device.

Alumbaugh et al teaches data indicative of a location of the communication device determined by the communication device; the requested information including selected information concerning a plurality of product or service providers satisfying the at least one user criterion, and respective directions and distances thereof from the location of the communication device, the selected information being formatted for the communication device to show the plurality of product or service providers on a list, wherein the list of product or service providers is sortable on their direction and distance from the location of the communication device (See col. 10, lines 15-40).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Arlein et al and the system which utilizes the GPS coordinates of a present location to coordinate the provision of entertainment information (See col. 1, lines 37-39) taught by Alumbaugh to achieve the predictable result of providing requested information to the communication device wherein the requested information including

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information concerning at least one product or service provider selected in a vicinity of the location of the communication device in accordance with a selected profile.

q. As per claims 73-78, see claims 2-5, 26-32 and 45-46

r. As per claim 79, Arlein et al teaches a system for serving a user of a communication device, the system comprising: an interface for receiving, through a communications network, a request for information concerning one or more product or service providers satisfying at least one user criterion (See page 3, paragraph [0029]) and an output element for providing the requested information to the communication device, the requested information including selected information concerning a plurality of product or service providers satisfying the at least one user criterion (See page 3, paragraph [0029] and page 4, paragraph [0032-0039]). Furthermore, Arlein et al teaches receiving data indicative of a selected one of the profiles (See page 4, paragraph [0044]). However, Arlein et al fails to teach and data indicative of a location of the communication device determined by the communication device; a processing unit configured to collect requested information from one or more sources based on the received data; and respective directions and distances thereof from the location of the communication device, the selected information being formatted for the communication device to show the plurality of product or service providers on a list, wherein the list of product or service providers being storable on their direction and distance from the location of the communication device (See col. 10, lines 15-40).

It would have been obvious to one with ordinary skill in the art at the time the invention

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was made to combine the teaching of Arlein et al and the system which utilizes the GPS coordinates of a present location to coordinate the provision of entertainment information (See col. 1, lines 37-39) taught by Alumbaugh to achieve the predictable result of providing requested information to the communication device wherein the requested information including information concerning at least one product or service provider selected in a vicinity of the location of the communication device in accordance with a selected profile.

s. As per claims 80-85, see claims 2-5, 26-32 and 45-46.

t. As per claims 86 and 94, Arlein et al teaches a method for use in a server serving a user of a communication device, the method comprising: receiving, through a communications network, a request for information concerning one or more product or service providers satisfying at least one user criterion (See page 3, paragraph [0029]) and collecting requested information from one or more sources based on the received data; and providing the requested information to the communication device (See page 3, paragraph [0029] and page 4, paragraph [0032-0039]). Furthermore, Arlein et al teaches receiving data indicative of a selected one of the profiles (See page 4, paragraph [0044]). However, Arlein et al fails to teach data indicative of a location of the communication device determined by the communication device; the requested information including information concerning at least one product or service provider, and an operating status thereof, the at least one product or service provider being selected in a vicinity of the location of the communication device and in accordance with the at least one user

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criterion, wherein the operating status indicates whether the at least one product or service provider is open for business (See col. 10, lines 15-40).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Arlein et al and the system which utilizes the GPS coordinates of a present location to coordinate the provision of entertainment information (See col. 1, lines 37-39) taught by Alumbaugh to achieve the predictable result of providing requested information to the communication device wherein the requested information including information concerning at least one product or service provider selected in a vicinity of the location of the communication device in accordance with a selected profile.

u. As per claim 87-93 and 95-100, see claims 2-5, 26-32 and 45-46 above.

(10) Response to Argument

A. The examiner's Combination of Arlein and Alumbaugh is improper.

In response to appellant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Furthermore, Appellant argues that "the resulting combination would be to use the GPS coordinates of the present location of the server to provide information about a "service provider selected in a vicinity of the location of the communication device ..."" 1) Arlein teaches wherein "The user computer system 202 is the computer system through which a user accesses the merchant web sites during his or her online shopping endeavors. **It is also the computer system through which the user accesses the personae server 206 to request and specify parameters of various personae that he or she wishes to operate under** while visiting various merchant web sites. An exemplary interface with the personae server 206 is described in the next section. It is to be understood that the user accesses these features through the browser software running on his or her system. Contrary to Appellant's assertion, Arlein teaches the use of a device to access the server. Arlein not only concerns itself with the teaching of the method for use in the server but also concerns itself with teaching the user of device for access to the services provided by the server 2) Alumbaugh concerns itself with the GPS location of the travel guide device. Alumbaugh recites " the travel guide device determines when the vehicle is approaching a point-of interest location and, at an appropriate time, automatically begins transmitting the narration information associated within the database with the GPS coordinates of the point-of interest location being approached" (See col. 4, lines 44-50). The present location of the communication device (*travel guide of Alumbaugh*) is providing the relevant in providing the information about a product (point-of interest of Alumbaugh) in the vicinity of the communication device. Indeed, the combination of the teaching Arlein in view of Alumbaugh produces the appellant's claimed invention.

Appellant is arguing that Arlein's "server excludes from consideration such information "as the Ip address from which the user visited or any other identifying information like an email address". The Examiner is at loss as to why an out of context citation of Arlein's would censor the combination of Arlein in view of Alumbaugh. In view of the foregoing, the Examiner believes that sufficient reasons for combining the teachings of Arlein and Alumbaugh was provided to reconstruct Appellant's claimed invention.

B. Combination of Arlein and Alumbaugh does not produce the claimed invention.

Applicant argues that Alumbaugh fails to teach "receiving through a communication network, ... data indicative of a selected one of the profiles and a location of the communication device determined by the communication device". However, Alumbaugh's clearly teaches wherein the "getting the current location GPS coordinates from the GPS receiver" (See col. 5, lines 36-3.7). Furthermore, Alumbaugh teaches wherein the "travel guide device includes a GPS receiver for determining a present location. Thus, teaching the claimed limitation of " data indicative of a location of the communication device determined by the communication device. Furthermore, contrary to Appellant's assertion, the communication device **does not** receive data indicative of the location of the device through a communications network". Actually, after determining the GPS coordinates, Alumbaugh's device transmits the information to the cellular communication service providers. Specifically, Alumbaugh teaches wherein the directory may be maintained and updated automatically over the communication facilities of the travel guide device" (See col. 10, lines 25-27). Appellant argues that Alumbaugh teaches away from the claimed invention "by having cellular communications service providers within a defined service

areas "automatically establish a communications link". Thus, the Examiner believes that the subject matter is representative of the claimed limitations as recited by claims 1 and 33.

Claims 48 and 60, and dependent claims 49-59 and 61-71

Appellant argues that Arlein in view of Alumbaugh fails to teach "information concerning at least a first product or service provider in accordance with the selected profile, wherein the first product or service provider and at least a second product or service provider are selected in a vicinity of the location of the communication device. However, Arlein clearly teaches wherein the information concerning at least a first product or service provider in accordance with the selected profile (See paragraph [0032 and 0044]). However, Arlein fails to teach wherein the products or service providers are located in the vicinity of the location of the communication device. Alumbaugh teaches products or providers are located in the vicinity of the location of the device (See col. 10, lines 15-40).

Claims 72-79, and dependent claims 73-78 and 80-85

Appellant argues that Arlein in view of Alumbaugh fails to teach "information which is formatted for the communication device to show the plurality of product or service providers on a list, wherein the list of product or service provider is sortable on their direction and distance from the location of the communication device. However, Alumbaugh clearly teaches ordering by range (radial distance) and proximity. Furthermore, Alumbaugh teaches where the display may be ordered by user's preference (See col. 10, lines 38-40).

Claims 86 and 94, and dependent claims 87-93 and 95-100

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Appellant argues that Arlein in view of Alumbaugh fails to teach "information concerning at least one product or service provider, and an operating status thereof, the at least one product or service provider being selected in a vicinity of the location of the communication device and in accordance with the at least one user criterion, wherein the operating status indicates whether the at least one product or service provider is open for business. However Alumbaugh teaches wherein the destination GPS coordinates may be retrieved from a World Wide Web site maintained by the destination enterprise (See col. 9, 63-64).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Djenane Bayard

/D. M. B./

Examiner, Art Unit 2441

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444

Conferees:

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444